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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,023	12/20/2000	Ram Kudukoli	5150-44100	8133
35690	7590	10/27/2004	EXAMINER	
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398			KANG, INSUN	
			ART UNIT	PAPER NUMBER
			2124	

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/745,023

Applicant(s)

KUDUKOLI ET AL.

Examiner

Insun Kang

Art Unit

2124

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-64.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: See Continuation Sheet

Continuation of 5. does NOT place the application in condition for allowance because: The original claims 1, 49, 53, and 60 do not recite a graphical program where a graphical program includes a plurality of interconnected nodes that visually indicate the functionality of the program. The amended claims have not been entered. As has been addressed in the previous office action, the examiner interprets a graphical program as a program of or relating to written or visual representation. Therefore, the application shell code generated by activating a generate code button 286 within the graphical interface tool window is interpreted as a graphical program. Accordingly, in view of the broadest reasonable interpretation, Uczekaj discloses a graphical program as recited in the original independent claims. The applicant argues that the systems in the applied references do not "programmatically generate a graphical program, but rather the user manually creates the graphical program (interconnected objects)." The applicant asserts that "programmatically" means "automatically" in page 21 lines 1-2. However, the examiner points out that these two terms are essentially different in scope. Programmatically does not necessarily suggest that functionality is performed automatically. A program is a set of instructions for a computer to follow and perform some process based on the instructions. Any user-written/designated program that a computer can understand and therefore that leads to generate some result based on the programmatic approach to problem solving can be considered to be programmatically generated, therefore, programmatically generating a program does not necessarily imply that the program is automatically generated/executed being modified itself during its execution/generation.

Continuation of 10. Other: The new Oath/Declaration filed 9/21/2004 has been acknowledged .

*Kakali Chaki*

**KAKALI CHAKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100**